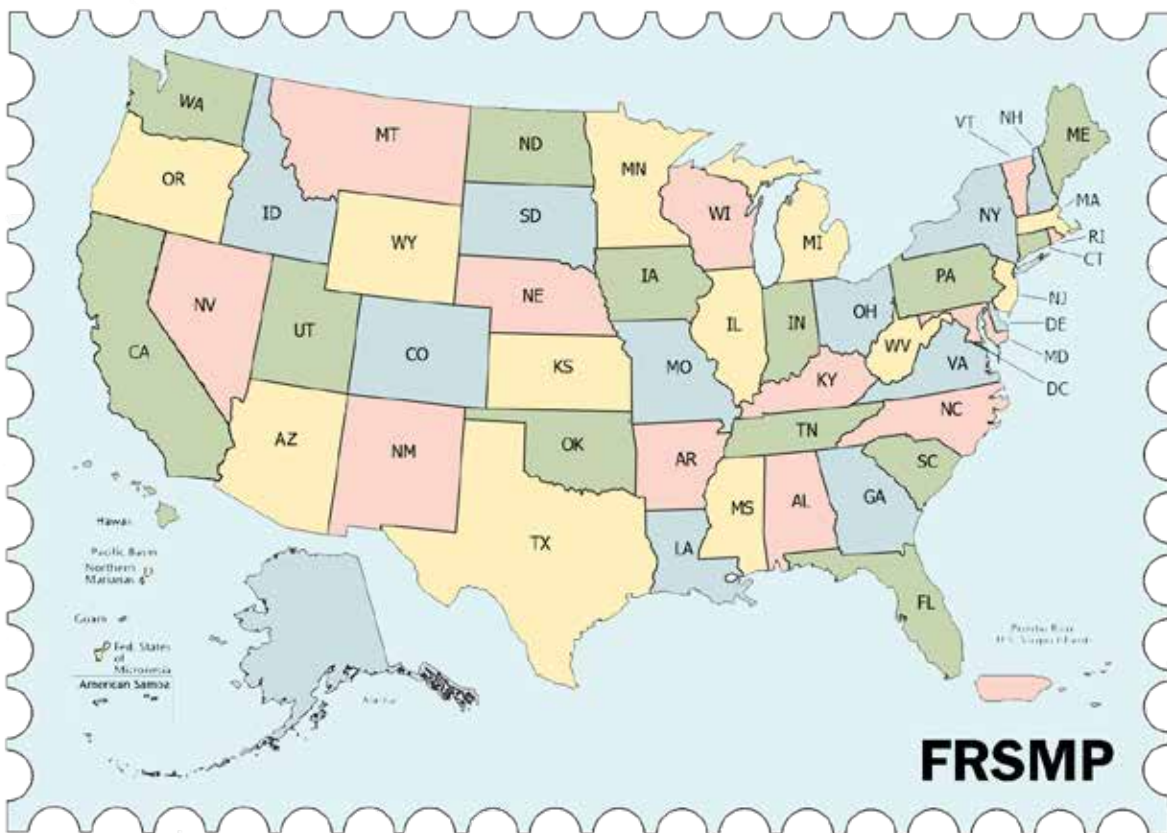




United States Department of Agriculture

# Federally Recognized State Managed Phytosanitary Program Manual



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When using pesticides, read and follow all label instructions.

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# Introduction

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## Purpose

The [International Standard for Phytosanitary Measures \(ISPM\) No. 5](#) of the [International Plant Protection Convention \(IPPC\)](#) defines official control as “the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated nonquarantine pests.” This definition refers to regulated pests in an importing country that are present but **not** widely distributed.

USDA–APHIS–PPQ is basing the Federally Recognized State Managed Phytosanitary (FRSMP) Program on the guidelines for applying official control as outlined in [ISPM No. 5](#) Supplement No. 1. In addition to eradication and containment programs, USDA–APHIS–PPQ recognizes programs that exclude a pest based on the same criteria. States are required to provide evidence that introducing a pest presents an economic or environmental risk and take domestic phytosanitary action, thereby justifying equivalent action at ports of entry to protect the endangered area.

The purpose of the FRSMP Program is to recognize State programs that eradicate, exclude, or contain any plant pest that is **not** eradicated or contained by APHIS–PPQ. Through this program, APHIS–PPQ recognizes State quarantines at ports of entry.

As per IPPC guidance, shipments containing pests under recognized State management are subject to equivalent phytosanitary requirements in domestic and foreign commerce.

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## Users

Users of the FRMSP Program Manual may include the following:

- State Plant Regulatory Officials (SPROs)
- Official Control Advisory Panel
- PPQ Policy Management Staff
- PPQ Field Operations Staff
- Department of Homeland Security, Customs and Border Protection (CBP) personnel

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## Authorities and Related Documents

- [\*Manual for Agricultural Clearance \(MAC\)\*](#) (internal use only)
- [\*Plant Inspection Stations Manual\*](#) (internal use only)
- [Plant Protection Act 2000](#)
- [\*PPQ Treatment Manual\*](#)
- [7 CFR 330.106](#)
- Job Aids
- [State laws and regulations](#)
- [IPPC](#)
- [The World Trade Organization \(WTO\) Agreement on the Application of Sanitary and Phytosanitary Measures](#)
- [ACIR](#)
- [7 CFR 305](#)

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## Advisories

Advisories are used throughout this manual to bring important information to your attention. Carefully review each advisory. The definitions coincide with the American National Standards Institute (ANSI), with the goal of making the warnings easy to recognize and understand<sup>1</sup> and are in the format shown below.

### ⚠ CAUTION

CAUTION is used to indicate tasks involving minor-to-moderate risk of injury.

### ⚠ DANGER

DANGER is used to indicate the event of imminent risk of death or serious injury.

### NOTICE

NOTICE is used to alert a reader of important information or Agency policy.

### SAFETY

SAFETY is used for general instructions or reminders related to safety.

### ⚠ WARNING

WARNING is used to indicate the event of possible risk of serious injury.

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## FRSMP Manual Contacts

### Information Services and Manuals Unit (ISMU)

The PPQ Information Services and Manuals Unit (ISMU) issues and maintains manuals electronically on the [APHIS Plant Protection and Quarantine Manuals](#) webpage.

If you are unable to access the *FRSMP Manual* online or have a suggested edit (layout, spelling, etc.) please contact ISMU by email at [PPQ.IRM.ISMU.Manuals.Feedback@usda.gov](mailto:PPQ.IRM.ISMU.Manuals.Feedback@usda.gov).

Revisions to the manual are announced via the [APHIS Stakeholder Registry](#) to anyone, government employees and external stakeholders, who have subscribed to receive *FRSMP Manual* updates. To subscribe, navigate to [APHIS Stakeholder Registry](#), enter your email address, and select the relevant manuals under Plant Health Information – Manual Updates.

### FRSMP Program Unit

If information regarding a policy, procedure, or commodity admissibility appears incorrectly in the *FRSMP Manual* or you have an **urgent** situation that requires **immediate** response, contact the FRSMP Program Unit by email at [FRSMP@usda.gov](mailto:FRSMP@usda.gov).

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<sup>1</sup> TCIF Guideline, *Admonishments (Safety-Related Warning Message)*, TCIF-99-021 Issue 1, p.4.



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## Purpose

The purpose of this chapter is to communicate APHIS–PPQ’s policy for the recognition of State-managed phytosanitary programs. This policy is established through regulatory authority provided by Section 411 and 414 of the [Plant Protection Act \(PPA\)](#) (7 U.S.C. 7711) and to maintain a consistent safeguarding and trade policy by aligning with the [International Standard for Phytosanitary Measures \(ISPM\) No. 5](#), Supplement No.1, Guidelines on the Interpretation and Application of the Concept of Official Control for Regulated Pests.

The purpose of the Federally Recognized State-managed Phytosanitary (FRSMP) Program is to provide Federal recognition of official control programs implemented by States to eradicate or contain a plant pest that is otherwise **not** regulated through a Federal domestic program. State-managed programs that exclude a pest from a State where it is **not** present and where economic or environmental harm would result from its introduction may also qualify for consideration.

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## Background

Under the [PPA](#), as amended (PPA, 7 U.S.C. 7701 et seq.), the Secretary of Agriculture is authorized to take such actions as may be necessary to prevent the introduction and spread of plant pests and noxious weeds within the United States. The Secretary has delegated this responsibility to the Administrator of the Animal and Plant Health Inspection Service (APHIS).

While the Secretary has the authority to regulate **all** plant pests, the Secretary has chosen to narrow the scope of the plant pests that require action at the U.S. ports of entry to be consistent with international obligations.

As a contracting party to the [International Plant Protection Convention](#) (IPPC)<sup>1</sup>, the United States has agreed to observe the general and specific principles of the convention as they relate to international trade. One such general principle provides that “countries shall institute restrictive measures only where such measures are made necessary by phytosanitary considerations, to prevent the introduction of quarantine pests.” Accordingly, there is an expectation on the part of other contracting parties to the IPPC (i.e., U.S. trading partners) that APHIS will **not** exercise its authority under the PPA to prohibit or restrict the importation of a plant, plant product, or other article unless such action was necessary to prevent the introduction of a quarantine pest.

The IPPC’s “[Glossary of Phytosanitary Terms](#)” defines quarantine pest as, “a pest of potential economic importance to the area endangered thereby and **not** yet present there, or present but **not** widely distributed and being officially controlled.” While the first consideration may be readily understood, the concept of “official control” is subject to further definition. Specifically, the IPPC defines official control as, “the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated nonquarantine pests.” A regulated nonquarantine pest is defined as a nonquarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is, therefore, regulated within the territory of the importing contracting party.

Under the FRSMP Program, PPQ is responsible for policies regarding port inspections restricting commodities infested with a particular pest destined for protected States. State partners are responsible for collaborating on a common program for each pest, establishing eradication, control, or exclusion programs, and petitioning for Federal recognition of those programs.

[7 CFR 330.200](#) *et seq.* requires a plant pest permit to be issued by APHIS **before** any pest may be imported into or moved interstate within the United States. [7 CFR 330.106](#) specifies that APHIS may take remedial measures at a port of entry if a plant pest is detected on a commodity and no such plant pest permit has been issued.

Upon implementation of the program, PPQ regulates FRSMP Program pests at ports of entry under [7 CFR 330.106](#). PPQ enters into a Cooperative Arrangement (AT) with a State upon recognizing its program, to which subsequent FRSMP Program pests will be added.

Phytosanitary requirements for interstate commerce into FRSMP States is equivalent to those expected from foreign trading partners. Using the AT, APHIS confers to a Federal collaborator authority under sections 414 and 421 of the PPA. The AT documents the Federal recognition of a State-managed phytosanitary program and formalizes the relationship between APHIS and a

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<sup>1</sup> The IPPC is recognized as the standard-setting body for international phytosanitary issues in the [World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures](#).

recognized State partner. APHIS defines responsibilities of both parties and designates a State cooperator as a “Federal Collaborator” with the responsibility to carry out Federal actions in very specific, defined circumstances relative to the Federal role in the recognized phytosanitary program. APHIS **does not** confer any authority under the PPA that is **not** specifically outlined in the AT and is **not** conferring authority under any other statute administered by APHIS, including the authority to establish and collect fees.

When a pest is detected at a U.S. port of entry, APHIS–PPQ establishes complementary regulatory policies to prevent movement of the pest in imported commodities and/or conveyances arriving in States where a FRSMP Program is in place. APHIS–PPQ also considers programs that exclude a pest from a State where it is **not** present, and where economic or environmental harm would result from its introduction. This additional consideration is supported by the [ISPM No. 5 Supplement 1 Guidelines](#) on the interpretation and application of the concepts of “official control” and “not widely distributed” under “Requirements,” which states “...official control includes restrictions related to movement into and within the protected area(s) including measures applied at import.”

Any State(s) that can justify that they would be economically or environmentally endangered by the introduction of a particular pest can apply for the designation “protected area” if the pest is **not** present or if present, is being officially contained or eradicated. APHIS-PPQ has discretionary authority to recognize State phytosanitary programs under the [Plant Protection Act of 2000](#). The [International Plant Protection Convention](#) (IPPC) includes provisions for the implementation of official control programs (eradication or containment) by sub-national authorities such as States, provided such programs are officially authorized and audited by the National Plant Protection Organization (NPPO). APHIS-PPQ is the NPPO for the United States.

Following initial implementation of the program, APHIS intends to amend 330.200 *et seq.* to establish a general plant pest permit for all FRSMP pests. The list of FRSMP pests covered by this permit, and the restrictions upon their movement within the United States, will be maintained online. Following establishment of such a permit, whenever we approve an additional State petition for a FRSMP pest, we will amend the general permit accordingly. This permit, which we will issue pursuant to Section 411 of the PPA, will provide an additional regulatory structure to codify actions taken by APHIS under the FRSMP Program.

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## Policy

For recognition of FRSM Program, PPQ accepts petitions for each pest from interested States. (FRSM no longer accepts common petitions from multiple states.) PPQ then reviews the petitions and makes decisions based on the established criteria and standards. PPQ will notify the States of the decision. If PPQ accepts the FRSM Program, PPQ will establish a policy to take action at U. S. ports of entry for such pests arriving in a State with a FRSM Program for that pest. PPQ will regulate pests in federally recognized programs to the State level at ports of entry. PPQ will continue its policy to take action on pests that are pending review under the FRSM Program, but this status will change when:

1. A FRSM Program is established and recognized,
2. States have expressed **no** interest in a FRSM Program, or
3. States are unable to establish a FRSM Program that meets international requirements and PPQ **cannot** justify continued action.

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## Process

Refer to the following topics:

- [Petition Guidelines](#)
- [Official Control Advisory Panel Charter](#)
- [Quality Assurance Guidelines](#)
- [FRSM Program Process at Ports of Entry](#)

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## Alternate Petition Process for PPQ-initiated FRSM Program Decisions

The PPQ FRSM Program Coordinator will identify quarantine pests that may be considered for State-managed phytosanitary programs because they have been established in the United States, are **not** widely distributed, and are **not** under official control by APHIS-PPQ. Within the PPA, section 414 authorizes the Secretary to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that, among other things, is moving into the United States and that the Secretary has reason to believe is infested with a plant pest or noxious weed at the time of the movement. Under this authority, consignments of imported articles are inspected at the port of entry to determine whether plant pests are associated with them and, if so, prescribe remedial measures as described in the Act. APHIS typically refers to such measures as “taking action” at the port of entry to prevent a plant pest from being introduced into or further disseminated within the United States. Pests that are subject to such actions are referred to as “quarantine pests.” PPQ will continue to take action for pests with limited distribution under this authority.

Twice a year, PPQ will provide Deregulation Evaluation of Established Pests (DEEP) reports to the National Plant Board. These reports will either recommend maintaining actions at ports of entry (POEs) or discontinuing taking action (deregulating). For pests being considered for deregulation, States have the option to apply for a State-managed phytosanitary program. If no

State Plant Regulatory Official (SPRO) is interested in a State-managed phytosanitary program, action will no longer be taken at ports of entry for that pest. When a State or States indicate interest in a Federally Recognized State-managed Phytosanitary Program for a particular pest, the pest will remain quarantine until APHIS-PPQ and the interested States have concluded analyses leading to a FRSMSP petition.

If **no** State petitions for a FRSMSP Program, PPQ will stop acting on that pest at ports of entry.

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## Approved Programs

Approved programs will be subject to audit/monitoring requirements. State Departments of Agriculture will assure program data are entered into the appropriate database and will be required to submit annual reports.

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## Preclearance

PPQ Preclearance Operational Work Plans will include options for remedial action when a FRSMSP Program pest is detected upon inspection in the exporting country.

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## Cooperative Arrangement (AT)

Upon approval of a petition, program States (Cooperators) will enter into a AT with USDA-APHIS-PPQ. The AT will define the terms under which the States and PPQ will take action on FRSMSP Program pests and mitigation methods to be applied.

States may join an existing FRSMSP Program through a petition agreeing to established terms.

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## Provisional FRMSP Status

Under the authority of the Plant Protection Act, USDA-APHIS has the discretion to implement “provisional” FRMSP Program status for a phytosanitary pest upon receipt and preliminary review of a State’s FRMSP petition. If USDA-APHIS decides to implement provisional FRMSP Program status for a phytosanitary pest, USDA-APHIS may require remedial action on that pest when detected arriving in, or that is destined to, the petitioning State(s) during the period that USDA-APHIS is finalizing its review of that State’s FRMSP petition. However, Federal Collaborator status will **not** be conferred to a petitioning state agency until the petition is formally approved, which means no federal authority will be delegated to a state to act upon the proposed FRMSP Program pest during the pest’s “provisional” status.

The “provisional” FRMSP Program status for a phytosanitary pest shall **not** exceed 60 days from the implementation unless USDA-APHIS determines it should be extended and the State wants an extension. Likewise, APHIS may determine at any time that the “provisional” status be withdrawn as necessary. For example, APHIS may extend a “provisional” status when a State is requested to submit subsequent information regarding their specific FRMSP petition. A “provisional” status may be withdrawn if the petition is denied, when a State notifies USDA-APHIS of its intent to withdraw from the petition process, when a State fails to complete the petition within the agreed upon time schedule, or a State **no** longer wants APHIS to take any control action against a specific phytosanitary pest.

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## Termination

- States shall notify the FRMSP Program Coordinator of a decision to terminate an approved program
- APHIS PPQ may terminate Federal recognition of a program for nonperformance after discussions with State partners

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## Notice to Industry and Trading Partners

When PPQ’s FRMSP Program becomes operational, PPQ will submit a Federal Register Notice, followed by a World Trade Organization Notice. The APHIS Stakeholder Registry will provide notification of new approved petitions to those subscribed as requesting notices of official control/FRMSP. PPQ will also issue a SPRO Letter. PPQ will post all programs and related information to the public on the [FRMSP Program website](#). State programs will be identified as for containment, eradication, or exclusion in order to indicate pest presence or absence.

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## Inquiries

Direct inquiries to [FRMSP@usda.gov](mailto:FRMSP@usda.gov).

# Procedures

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## Steps for Completing a FRSMSP Program Petition

1. Interested State Plant Regulatory Officials (SPROs) will notify the National Plant Board (NPB) of their intent to submit a petition.
2. Within 60 days of Plant Protection and Quarantine's (PPQ) notice to deregulate a pest, the NPB representative will notify the PPQ FRSMSP Program Coordinator ([FRSMSP@usda.gov](mailto:FRSMSP@usda.gov)) with the list of interested SPROs.
3. Within 12 months of declaring intent to petition for recognition of a state-managed phytosanitary program for a specific pest, the SPROs will submit the completed petition to the NPB.
4. The NPB representative will forward the petition to the Plant Protection and Quarantine (PPQ) to the FRSMSP Program Coordinator ([FRSMSP@usda.gov](mailto:FRSMSP@usda.gov)).

For SPROs to join an existing FRSMSP Program, there are two options:

1. Agree to follow detection and control process in a recognized petition, submitting addendum with new parts relevant to joining state (absence or limited distribution, potential pathways of introduction, potential economic/environmental impact, state regulations).
2. In addition to adding the above information, renegotiate detection and control terms, with approval from participating recognized parties.



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## Petition Guidelines

These guidelines describe procedures established by the United States Agriculture Department, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (USDA-APHIS-PPQ) to petition the Agency for official recognition of State-level plant pest regulations and associated actions. This program contributes to the accomplishment of USDA-APHIS-PPQ Strategic Goal #1 to protect agriculture from plant and animal diseases and pests, and Strategic Goal #4 to maintain and expand the safe trade of agricultural products nationally and internationally, as stated in the APHIS Strategic Plan FY23-27.

### International Framework

As a member of the [World Trade Organization \(WTO\)](#) the U.S. agrees to observe the provisions of WTO agreements, including the [Agreement on the Application of Sanitary and Phytosanitary Measures \(the SPS Agreement\)](#). USDA-APHIS-PPQ is the U.S. Agency with primary responsibility for the implementation of phytosanitary measures. As such, PPQ is also responsible for provisions of the Agreement related to phytosanitary measures, including those implemented in the U.S. by other than the national government. PPQ's role in this regard is to ensure that these entities comply with relevant provisions of the Agreement and **do not** take measures which are, directly or indirectly, inconsistent with the provisions of the Agreement. Further clarification of the role of PPQ under the SPS Agreement is provided by the [International Plant Protection Convention \(IPPC\)](#) and associated international standards. The IPPC is specifically identified by the SPS Agreement as holding the responsibility for standard setting associated with phytosanitary measures.

Under the IPPC's International Standards for Phytosanitary Measures [ISPM No. 5](#), Supplement No.1, a national government or a National Plant Protection Organization (NPPO) should establish or recognize Official Control under appropriate legislative authority. The national government or NPPO should perform, manage, supervise, or at minimum, audit/review the Official Control program and ensure its enforcement. Agencies other than the NPPO may be responsible for aspects of official control programs, and certain aspects of official control programs may be the responsibility of sub-national authorities.

### Regulatory Conditions for Implementation

USDA-APHIS-PPQ has the primary authority and responsibility for phytosanitary measures associated with preventing the introduction and spread of exotic plant pests. In instances where a plant pest has become established in the United States but USDA-APHIS-PPQ decides **not** to take regulatory actions or establish regulatory programs, States may take actions and establish programs domestically. USDA-APHIS-PPQ can officially recognize these programs as the basis for taking regulatory actions at ports of entry which are consistent with the intent of the State-managed program.

There are two situations where States may apply for Federal recognition of their phytosanitary programs. When USDA-APHIS-PPQ **does not** regulate a plant pest of limited distribution in the United States:

1. A State that has that pest within its own borders may implement procedures to contain or eradicate the plant pest or to contain the plant pest within its borders.



2. A State **without** that pest may implement procedures to exclude the pest in order to prevent the risk of introduction of the plant pest within its borders.

Should a trading partner challenge USDA-APHIS-PPQ's import requirements based on the presence of a regulated pest in the United States, USDA-APHIS-PPQ may encourage a State where that pest occurs to establish a State-managed phytosanitary program. Such a program recognized by USDA-APHIS-PPQ can provide the justification for consistent actions against the same pest when found with imports at ports of entry.

Without Federal recognition of a State-managed phytosanitary program, the pest's regulatory status when found with imports may change from quarantine to non-quarantine, i.e., **no** action will be taken if the pest is detected at ports of entry. Establishing a State-managed phytosanitary program that is officially recognized by USDA-APHIS-PPQ ensures that action will be taken at ports of entry if the imported article is destined to a recognized State and avoids potential discrimination claims by trading partners.

To obtain a program's designation as a FRMSP Program, States (through the National Plant Board) **must** petition USDA-APHIS-PPQ to recognize their established or proposed programs to exclude, eradicate or contain a regulated plant pest.

## Petition Procedures for Quarantine Pests

The State should provide the following supporting information and documentation:

### Presence

Evidence that the pest **does not** exist in the State, or if it does exist, that it is being contained or there are programs in place for eradication. Include appropriate survey data, define the infested area(s), endangered area(s), and protected area(s), and the procedures used for establishing containment (including exclusion) or eradication.

### Possible Entry and Establishment

Evidence that the pest could enter and become established in the State, or if it already exists in the state, that it could become widespread.

### Economic/Environmental Harm

Evidence that the pest could cause economic and/or environmental harm in the State.

### Maintenance/Verification

A description of the State actions used to maintain and monitor for pest absence, limit distribution, or containment (including exclusion) including a description of monitoring programs.

### Quarantine Regulations

A copy of the State, local or Tribal quarantine regulations that provide for enforcement of the appropriate programs.

## Petition Procedures for Regulated Non-Quarantine Pests (RNQP)

The State should provide the following supporting information and documentation.

### **Economic Harm/Vulnerability**

Evidence that a particular pest could cause significant harm to plants for planting if the pest was **not** managed through a certification program.

### **Quarantine Regulation/Testing**

Evidence that the State has regulatory authority and a program established to manage the levels of the pest in plants for planting that are the hosts for the pest and a copy of the State, local or Tribal quarantine regulations that provide for the enforcement of a management program, and testing protocols. Provide a description of recent State actions taken under these regulations and the testing protocols used in the program.

### **Management/Verification**

A description of State actions to manage the level and/or verify producers' management of pest in the plants for planting, where the pest is maintained below a level that can affect production, health, or marketability of plants for planting and cause an unacceptable economic impact to those plants.

### **Where to Send a Petition**

Please send your Petitions for Federal recognition of a State-managed phytosanitary program for both quarantine and regulated non-quarantine pests, or your questions regarding the program, to [FRSMP@usda.gov](mailto:FRSMP@usda.gov).

### **Administrative Requirements**

USDA-APHIS-PPQ will require SPROs, to commit, in writing, the willingness to allocate resources necessary to implement and maintain the program. State Plant Regulatory Officials will identify the State's authority by citing the relevant regulations. State Plant Regulatory Officials will provide a description of how to implement the program, such as surveys, inspections, and compliance agreements.

### **Criteria Used to Evaluate the Petition**

Refer to [Appendix D: OCAP Criteria for Federal Recognition of a State-managed Phytosanitary Program](#).

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## **Port of Entry Guidelines**

Refer to the [Manual for Agricultural Clearance](#) (internal use **only**) and the [Plant Inspection Stations Manual](#) (internal use **only**).

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## **Quality Assurance Guidelines**

Refer to Chapter 5, [Quality Assurance](#).

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## **Audit/Review Guidelines**

USDA-APHIS-PPQ will audit programs every three years for survey and monitoring in order to confirm compliance. Any non-compliance **must** be addressed appropriately.

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## Program Termination

Programs may be terminated for these reasons:

- Cancellation by States
- Noncompliance

# Roles and Responsibilities

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## Science and Technology (S&T)

- Share risk information as available and as requested
- Evaluate proposed pests for environmental/economic risk
- Evaluate and report on pests for the collaborative PPQ/NPB effort – Deregulation Evaluation of Established Pests (DEEP) process
- Review petition as OCAP member
  - Recommend approval or denial

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## Customs and Border Protection (CBP)

- Inspect commodities as per *Manual for Agricultural Clearance (MAC)* (internal use **only**)
- Process interceptions as per *MAC*
- Take actions as per *MAC*

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## Export Services (ES)

- Evaluate a proposed pest for export concern

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## Information Services & Manuals Unit (ISMU)

- Maintain FRSMP Program Manual
- Update *MAC* (internal use **only**), *Plant Inspection Stations Manual*, *Treatment Manual*, and other manuals or job aids relative to FRSMP Program revisions

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## International Phytosanitary Standards Group

- Collaborate on issues involving FRSMP Program and [International Plant Protection Convention \(IPPC\)](#)/[North American Plant Protection Organization \(NAPPO\)](#)

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## FRSMP Program Coordinator.

- Consultation
  - Obtain information for State Plant Regulatory Official (SPRO) for a potential FRSMP Program pest, if contacted
  - Discuss suitability for FRSMP Program with SPRO, if contacted
- Track and propose potential FRSMP Program pests whose quarantine status requires reevaluation
- Work with ISMU to update FRSMP Program manual and other relevant manuals
- Coordinate the processing of petitions
- Review petition as Official Control Advisory Panel (OCAP) chair
- Recommend approval or denial
  - Obtain and maintain audit results
- Communicate and coordinate pest and program information within PPQ, with other APHIS/USDA/Federal groups, and stakeholders in State Departments of Agriculture, industry, academia, and non-governmental organizations
  - Coordinate with S&T and ES to determine economic and environmental risk categorization for potential FRSMP Program pests
  - Coordinate with DEEP Program Coordinator, S&T, and NIS to present pests for National Plant Board concurrence
  - Field importer questions concerning FRSMP Program as needed

## National Identification Services (NIS)

- Provide port of entry information on pests
- Consult with SPROs as requested
- Review petitions as OCAP member
- Recommend approval or denial
- Field importer questions concerning FRSMP Program as needed

---

## National Operations Manager

- Consultation
  - Obtain information for SPRO for a potential FRSMP Program pest, if contacted
  - Discuss suitability for FRSMP Program with SPRO, if contacted
- Review petition as Official Control Advisory Panel (OCAP) member
- Recommend approval or denial
- Oversee audit of a recognized program
  - Join periodic site visits, as determined
  - Review program records
  - Consult with FRSMP Program Coordinator.
- Cooperate with States on actions needed on commodities that may still be in foreign commerce, as per terms of the Cooperative Arrangement

---

## National Plant Board (NPB)

- Consultation
  - Discuss/assist in evaluation of a candidate pest
- Clearing house role
  - When approached by SPRO interested in a program for a pest, solicit interest from members
  - When approached by PPQ to evaluate a pest for FRSMP Program or to decline to regulate, solicit interest from members

---

## Phytosanitary Issues Management (PIM)

- Identify trade concerns to FRSMP Program Coordinator for follow up

---

## Plants for Planting Import and Policy

- Review proposed and final FRSMP pest lists to determine if there are any impacts on Pest Risk Assessments (PRAs)/market access requests that are currently in development
- Determine whether actions may be needed on PRAs from the past (which support existing market access)

---

## PPQ Deputy Administrator

- Review OCAP recommendation
- Approve or deny an evaluated petition

---

## PPQ Identifiers

- Inform U.S. Customs and Border Protection Agriculture Specialists (CBPAS) or PPQ officers that pest has FRSMP Status
- Communicate to CBPAS or PPQ officers the [list of participating States that the importer must avoid or redirect](#)
- Advise CBPAS or PPQ officers that CFR regulation for Emergency Action Notification (EAN) block 16 is [7 CFR 330.106](#)

---

## PPQ Officers

- Check target shipment ID numbers when in the marketplace in relevant program States, as assigned by SPHD
  - If target shipment ID found, issue EAN, notify SPHD
- If any inspection results in interception of a FRSMP Program pest in a FRSMP Program State, notify SPHD

---

## Professional Development Center (PDC)

- Instruct CBP participants on FRSMP Program in CBP Agricultural Quarantine Inspection Training
- Instruct PPQ participants on FRSMP Program in position-related training
- Instruct Federal collaborators in performing FRSMP audits and monitoring program compliance

---

## State Plant Health Directors (SPHDs)

- Consultation
  - Obtain information for SPRO for a potential FRSMP Program pest, if contacted
  - Discuss suitability for FRSMP Program with SPRO, if contacted
  - Consult with Tribal nations as needed
- Assist National Operations Manager (NOM) with audit of a recognized program
  - Join periodic site visits, as requested
  - Assist in the review of program records, as requested by Field Operations
  - Consult with FRSMP Program Coordinator, as requested
- Notify SPRO, Field, and FRSMP Program Coordinator if pest is detected by SITC or other PPQ field staff

- If in domestic commerce, PPQ role is ended
- Work in conjunction with Federal Collaborator as needed on commodities that may still be in foreign commerce, as per terms of the Cooperative Arrangement

---

## State Plant Regulatory Officials (SPROs)

- Decide what pest to consider
- Evaluate the pest for a State-managed program
- Contact Plant Protection and Quarantine (PPQ) staff for discussion or to request information if desired – for example:
  - State Plant Health Director
  - National Operations Manager
  - National Identification Services
  - FRMSP Program Coordinator for Official Control
- Consult with Regional Plant Board/National Plant Board/Tribes
- Collaborate with other SPROs
- Design a State-managed program, conscious of non-discrimination & equivalency requirements for material moving in foreign trade
- Complete a petition
- Manage a recognized program
- Serve as or appoint Federal Collaborator
- Assure reporting requirements to PPQ are met

## Federal Collaborators

Refer to the [Statement of Work for Federal Collaborators](#).



# Quality Assurance

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## Domestic Agricultural Quarantine Inspection (AQI) Review Process

The Domestic AQI Review Process for the Federally Recognized State-managed Phytosanitary (FRSMP) Program is described below.

### State Plant Health Directors (SPHDs) in FRSMP Program States Receive Advisory

1. The Data Management and Analysis Program (DMA) generates a canned report/advisory.
2. The report/advisory goes to the SPHDs of States with FRSMP Programs for pests that have entered the U.S. The report/advisory should be automatically generated to all intended recipients so as **not** to rely on email.

### SPHD Delegates as Supervisor

The SPHD may evaluate and assign directly or delegate that task.

1. In cooperation with the State, the SPHD will consider the importance of the pest to that State.
2. The SPHD or supervisor will consider the PPQ workload.

## Supervisor Evaluates Workload

1. The SPHD/supervisor evaluates the workload for his/her staff.
2. Each SPHD/supervisor in each office in each FRSMSP State location makes an independent decision relevant to his/her particular staff.
3. The SPHD or supervisor may take into account a daily assignment that may be in markets or nurseries where officers could easily add on the task, checking the advisory in places they are already assigned.

After evaluating staffing levels and current assignments, the supervisor will decide to:

- **Not** check for FRSMSP advisory, or
- Assign the advisory to officers

If the supervisor assigns the advisory to officers, the following considerations apply:

- The supervisor may assign officer to “be on the lookout” for the FRSMSP ID information in the advisory
- The supervisor reports negative/positive result to SPHD chain and the FRSMSP Program Coordinator. (simple email is satisfactory)
- A positive find requires an Emergency Action Notification (EAN) and is reported to the SPHD for follow-up
- The SPHD will refer the situation to the SPRO for action

---

## Port of Entry AQI Review Process

The Port of Entry AQI Review Process for the Federally Recognized State-managed Phytosanitary (FRSMSP) Program is described below.

### State Plant Health Directors (SPHDs) in FRSMSP Program States and FRSMSP Program Coordinator Receive Advisory

1. The Data Management and Analysis Program (DMA) generates a canned report/advisory.
2. The report/advisory goes to the SPHDs of States with FRSMSP Program for pests that have entered the U.S. The report/advisory should be automatically generated to all intended recipients so as **not** to rely on email.

### FRSMSP Program Coordinator Compares Pest ID and EAN Records

1. FRSMSP Program Coordinator compares number of Pest ID database records against EAN database records.
2. FRSMSP Program Coordinator identifies gaps between the two databases.
3. FRSMSP Program Coordinator reviews Pest ID records and looks for notes in Remarks section that explain the discrepancy.
4. FRSMSP Program Coordinator communicates findings to the National Operations Manager/Postentry Quarantine (PEQ) Coordinator and the SPHD of the State with the FRSMSP Program.

# DEEP Process Guide for State Plant Regulatory Officials

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## Introduction

The DEEP (Deregulation Evaluation of Established Pests) process is described in the APHIS-PPQ FRSMP [Policy](#) chapter as an alternate petition process, initiated by PPQ. APHIS-PPQ is seeking to harmonize import and interstate commerce requirements for these pests to ensure that actions taken at ports of entry are consistent with actions taken domestically for the same pests and pathways.

---

## Process

APHIS-PPQ will send DEEP reports to the National Plant Board approximately twice a year and will provide a port of entry report containing statistics for all interceptions in foreign commerce for the last 5 years. States have 60 days to review, respond with comments, and declare intent to petition for FRSMP, if applicable. The quantity and frequency of presenting DEEP candidates may vary depending on eligibility requirements at the time of each submission period. APHIS-PPQ Science and Technology's Plant Pest Risk Analysis (PPRA) completes the DEEP reports and considers each pest's biology, distribution, economic and environmental risk, and feasibility of official control. Additionally, APHIS-PPQ reviews reports internally, evaluates any trade implications, and determines.

---

## DEEP Review Pests

DEEP review pests are pests that APHIS-PPQ has decided **not** to regulate domestically. APHIS-PPQ has made the decision **not** to establish regulatory programs for certain established pests, but they remain quarantine for a period of time as PPQ evaluates the distribution and impact of the pests and considers the potential for domestic measures including FRSM Program. Based on the agriculture and economics of your state, and the feasibility of applying effective exclusionary measures, you may determine that a FRSM Program is appropriate for your State. The FRSM Program Manual contains guides to assist you in determining if a FRSM Program is the right choice for your State. Refer to [Appendix E – Analysis Aid for States](#). States should declare intent to petition for a FRSM Program within the 60-day response period of the DEEP review. During the petitioning process, the pest(s) of concern will remain quarantine at ports of entry.

---

## When to Participate in FRSM Program

A major consideration whether the FRSM Program is right for your State is whether a particular pest is ever detected at ports of entry. The benefit States receive from participating in the FRSM Program is protection at ports of entry. Unless that benefit is realized, it may **not** behoove States to inconvenience themselves with the extra requirements and expense of the FRSM Program. Alternatively, States may wish to independently establish external quarantines to address any potential domestic pathways.

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## Submitting Documentation

If the State believes APHIS-PPQ overlooked critical information in the decision **not** to regulate a DEEP review pest, States should submit documentation for further consideration. If the State is presented with a DEEP review for a pest that it believes is incomplete or incorrect, the State must send PPQ specific comments and documentation to support a revision and reassessment.

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## Concurrence with Recategorization to Non-quarantine at Ports of Entry

When you review the port of entry interception statistics and DEEP reports, you will see among other things how often a pest is detected in foreign commerce. If your state is under **no** risk from this foreign pathway, you may concur with the re-categorization to non-quarantine. You may then wish to establish or continue your domestic quarantine for the pest. If the pathway changes and federal agents begin to detect the pest in foreign commerce, you may decide to petition for the FRSM Program. Again, refer to [Interpreting Pest Interception Records](#) for further guidance on interpreting these statistics.

### Federal Register Notice Dated 11/13/2013 Docket 2013-27132

Refer to the Federal Notice [Evaluation of Established Plant Pests for Action at Ports of Entry](#) for detailed information.

# Forms, Worksheets, and Templates

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## USDA/APHIS National Plant Board Federally Recognized State-managed Phytosanitary Program Petition Worksheet

**Scientific Name:**

Order/Family:

Common Name(s):

Synonym(s):

### **Domestic distribution (may collaborate with PPQ on this section):**

- Provide a list of States where your pest occurs in States in the United States. Use the [IPPC](#) definition of establishment, which is: “Perpetuation, for the foreseeable future, of a **pest** within an **area** after **entry** [FAO, 1990; revised FAO, 1995; IPPC, 1997; formerly **established**].”
- Provide references.

### **Potential pathways of introduction (may collaborate with PPQ on this section):**

- Provide information on any means (e.g., importation of a host, interstate trade, smuggling, natural spread) that would allow the continued introduction of the pest into the State, or further facilitate the pest’s introduction to the State.
- Provide references.

### Foreign Pathway (material intercepted as general or permit cargo)

Host	Imported as	Origin	Quantity	Destination State	Consumption or Propagation

### Domestic Pathway

Host	Imported as	State of Origin	Notations

- Data to determine federal inspection equivalence
  - Does a phytosanitary certificate requirement exist, which exceeds a 1-2% port of entry inspection rate?
  - If **not**, provide evidence of interstate inspections to equal or exceed 1-2%

### Inspection Rates

Infested States	# Shipments Host 1	# Inspection	# Shipments Host 2, etc.	# Inspections	Total # Inspections

### Potential economic/environmental impacts (**may collaborate with PPQ on this section**):

- Provide a list of hosts that are of importance to your State.
- Describe the potential economic and/or environmental impacts as they apply to your State, including the economic value of impacted crops and host acreage. Check the [National Agricultural Statistics Service](#) for the latest U.S. value of production.
- Consider the following questions for economic impact:
  - Is the pest likely to attack federally listed threatened or endangered plants? Check the U.S. Fish and Wildlife Service’s [Threatened and Endangered Species System \(TESS\)](#).
  - Is the pest likely to reduce or eliminate a native plant that plays a major role in maintaining or defining a native ecosystem (i.e., a keystone species)? Refer to [ISMP No. 5](#) Supplement No. 2 of the IPPC Glossary of Phytosanitary Terms (Attachment 1) and section 2.3 of [ISPM No. 11](#) (Attachment 2) for further guidance.
  - Provide references.

Host Crop	Acreage	Value

**Regulatory Program Workplan:** This section will be incorporated into Appendix A of the Cooperative Arrangement between APHIS and the State upon recognition of your petition.

- Provide introduction and background
- List goals and objectives
- Provide details on the relevant operational activities to execute FRMSP program
- Identify performance measures

<b>Workplan</b>		
<b>Exterior Quarantine</b>		
◆ Cite State statute and summarize		
<b>Interstate Inspection</b>		
◆ Phyto requirements		
◆ Audit protocol		
◆ Inspection protocol		
◆ Inspection sites: entry points, fields, distributions centers, etc.		
◆ Quality Assurance activity		
<b>Surveillance</b>		
<b>Traps</b>	<b>Field/Commodity Inspections</b>	<b>Other</b>
◆ Response plan if pest is detected		
<b>Annual Reporting: Summary of activities/results</b> (e.g. number of interstate shipments inspected; number of interstate shipments mitigated for the pest; what mitigation was used. Examples for Surveillance: number traps set, number traps set in counties bordering infested areas, number visual inspections, results)		

**Figure A-1 Regulatory Program Workplan Example**

**State/local/Tribal phytosanitary regulations:**

- Provide a copy of the State/local/Tribal mandatory quarantine regulations associated with pest management programs, testing protocols (if applicable), and other related actions recently taken to maintain pest freedom or contain pest distribution for the specific pest in this FRMSP petition.
- If **no** State/local/Tribal regulations are currently in place, what steps are being taken to establish State-based regulations?

**Funding statement:** Indicate your source of funding for program activities.

**Author(s):** Type the names of all authors, contact information such as phone number and email, and their affiliation.



## FRSMP Cooperative Arrangement Template Example

The Cooperative Arrangement Template is available for internal use **only** on the [APHIS website](#).

XX-XXXX-XXXX-AT

**NOTICE OF COOPERATIVE ARRANGEMENT  
BETWEEN THE  
\_\_\_\_\_ DEPARTMENT OF AGRICULTURE  
AND THE  
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)  
PLANT PROTECTION AND QUARANTINE (PPQ)**

**ARTICLE 1 –PURPOSE**

The purpose of this Cooperative Arrangement is for APHIS-PPQ to formally provide Federal recognition of \_\_\_\_\_ State-managed phytosanitary program for the control of all pests listed in Appendix A of this Arrangement, and to delegate authority to \_\_\_\_\_ Department of Agriculture as a Federal collaborator to assist the USDA, APHIS in the administration and enforcement of such federal laws to restrict the entry and movement of foreign commerce infested with such federally recognized pest(s). APHIS-PPQ and \_\_\_\_\_ Department of Agriculture intend to collaborate to ensure that equivalent mitigation measures are applied to agricultural imports and domestic regulated articles for the purpose of harmonization of both domestic and international commerce into and throughout the United States.

For the purpose of providing Federal authority to the \_\_\_\_\_ Department of Agriculture to act as a Federal collaborator(s) pursuant to the Talmadge-Aiken Act of 1962 (7 U.S.C. 450), and as a Federal collaborator, to take official action on the movement of foreign commerce moving into or throughout the State of \_\_\_\_\_, this Cooperative Arrangement delegates the following specific USDA, APHIS-PPQ authorities, namely, sections 414, and 422 of the Plant Protection Act, 7 U.S.C. § 7701 *et seq.* (PPA) and the specific APHIS safe guarding regulations promulgated there under to such Federal collaborator(s) as described in this Arrangement.

**ARTICLE 2 - BACKGROUND**

APHIS-PPQ has implemented a program for the Federal Recognition of State Managed Phytosanitary (FRSMP) programs which establishes a process for States to petition APHIS-PPQ for Federal recognition of State-managed phytosanitary programs developed to exclude, eradicate or contain plant pests of limited distribution within the United States that APHIS is not currently regulating or is considering to no longer regulate under a Federal program.

Once a State-managed phytosanitary program for a particular plant pest receives Federal recognition, USDA, APHIS and the U.S. Department of Homeland Security, Customs and Border Control (CBP) may continue to or may begin to take Federal control actions at the United States ports of entry if this plant pest is intercepted in a consignment of imported goods. The

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**Figure A-2 FRSMP Cooperative Agreement Example**



## Statement of Work for Federal Collaborators

### Introduction

Federal Collaborators are individuals who have specialized plant health skills that APHIS requires to complete specialized program activities, complete APHIS training, or perform APHIS-sanctioned duties. The Plant Protection Act of 2000 (PPA) authorizes the Secretary to cooperate with the States or political subdivisions thereof, domestic or international organizations or associations, and individuals to carry out the programs of the PPA. APHIS **does not** pay the Federal Collaborator a salary, but may compensate for travel and other expenses. The activities being performed may be covered by a Memorandum of Understanding, Cooperative Agreement, Cooperative Arrangement, work plan or other agreement instrument between APHIS and the State or Tribe. Assignments are characterized by requirements for a thorough working knowledge and alertness to potentially harmful pests and plants; the exercise of judgment and experience involved in the application and interpretation of rules, regulations, and laws in recommending or determining courses of action.

### Duties

The incumbent provides effective cooperation between parties to protect the nation's agricultural, horticultural, timber, plant, and other resources from damage caused by plant pests or noxious weeds. For example:

1. Defines roles and responsibilities of the parties in the inspection and monitoring of post-entry quarantine sites and the monitoring and enforcement of importer compliance with post-entry quarantine requirements.
2. Defines roles and responsibilities of the parties in the monitoring and enforcement of importer compliance with Federally Recognized State Managed Phytosanitary Program requirements.
3. Cooperatively participates in the performance of phytosanitary export certification of plant and plant products.
4. Establishes harmonized standards to control the spread of disease through State certification programs for seed potatoes.
5. Participates in PPQ Federal Pesticide Certification Plan to purchase and apply restricted use pesticides.
6. Participates in activities such as military preclearance, pest survey activities and weed eradication activities.

May perform in a temporary duty capacity similar to those described above in connection with Emergency Programs operations.

The incumbent has wide latitude for planning and scheduling the assigned work. PPQ may review work by occasional spot checks, and review of work reports submitted by the incumbent.

Interagency contacts typically include the staff officers, and pest management professionals within PPQ. Contacts also include officials in other Federal agencies, State, County, Tribal, and local officials, extension personnel, high ranking State department and agricultural administrators, organized farm groups, individual farm owners, cooperators, stakeholders, contractors, and others in similar positions in related agencies or in private groups.

### **Other Considerations**

Authorities for this position are 5 CFR 213.2012(k), 5 CFR 213.104 and 7 USC 2225.

This statement of work cites the primary and typical but **not** all-inclusive duties of the position.

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## **PPQ Form 518, Report of Violation**

A fillable version of the [PPQ Form 518, Report of Violation](#) is available.

## PPQ Form 523, Emergency Action Notification

<small>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control numbers for this information collection are 00579-0040, 0049, 0054, 0088, 0142, 0144, 0150, 0207, 0310, and 0363. The time required to complete this information collection is estimated to average 30 minutes to 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</small>		<small>OMB Approved          0579-0040, 0049, 0054,          0088, 0142, 0144, 0150,          0207, 0310, and 0363</small>	
UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE PLANT PROTECTION AND QUARANTINE  <b>EMERGENCY ACTION NOTIFICATION</b>		<b>SERIAL NUMBER</b>	
		1. PPQ LOCATION	2. DATE ISSUED
3. NAME AND QUANTITY OF ARTICLE(S)		4. LOCATION OF ARTICLES	
		5. DESTINATION OF ARTICLES	
6. SHIPPER		7. NAME OF CARRIER	
		8. SHIPMENT ID NUMBER(S)	
9. OWNER/CONSIGNEE OF ARTICLES		10. PORT OF LADING	11. DATE OF ARRIVAL
9a. NAME			
9b. ADDRESS		12. ID OF PEST(S), NOXIOUS WEEDS, OR ARTICLE(S)	
		12a. PEST ID NUMBER	12b. DATE INTERCEPTED
		13. COUNTRY OF ORIGIN	14. GROWER NUMBER
9c. PHONE NUMBER	9d. FAX NUMBER	15. FOREIGN CERTIFICATE NUMBER	
9e. SOCIAL SECURITY NUMBER	9f. TAX IDENTIFICATION NUMBER (TIN)	15a. PLACE ISSUED	15b. DATE
<p>Under Sections 411, 412, and 414 of the Plant Protection Act (7 U.S.C. 7711, 7712, and 7714) and Sections 10404 through 10407 of the Animal Health Protection Act (7 U.S.C. 8303 through 8306), you are hereby notified, as owner or agent of the owner of said carrier, premises, and/or articles, to apply remedial measures for the pest(s), noxious weeds, and/or article(s) specified in Item 12, in a manner satisfactory to and under the supervision of an Agriculture Officer. Remedial measures shall be in accordance with the action specified in Item 16 and shall be completed within the time specified in Item 17.</p> <p>AFTER RECEIPT OF THIS NOTIFICATION, ARTICLES AND/OR CARRIERS HEREIN DESIGNATED MUST NOT BE MOVED EXCEPT AS DIRECTED BY AN AGRICULTURE OFFICER. THE LOCAL OFFICER MAY BE CONTACTED AT:</p>			
16. ACTION REQUIRED			
<input type="checkbox"/> TREATMENT			
<input type="checkbox"/> RE-EXPORTATION			
<input type="checkbox"/> DESTRUCTION			
<input type="checkbox"/> OTHER			
<p>Should the owner or owner's agent fail to comply with this order within the time specified below, USDA is authorized to recover from the owner or agent cost of any care, handling, application of remedial measures, disposal, or other action incurred in connection with the remedial action, destruction, or removal.</p>			
17. AFTER RECEIPT OF THIS NOTIFICATION, COMPLETE SPECIFIED ACTION WITHIN (Specify Number of Hours or Number of Days):		18. SIGNATURE OF OFFICER:	
19. ACKNOWLEDGMENT OF RECEIPT OF EMERGENCY ACTION NOTIFICATION			
<i>I hereby acknowledge receipt of the foregoing notification.</i>			
SIGNATURE AND TITLE		DATE AND TIME:	
20. REVOCATION OF NOTIFICATION			
ACTION TAKEN			
SIGNATURE OF OFFICER		DATE:	
PPQ FORM 523 JUL 2014		<small>(Previous editions are obsolete.)</small>	

Figure A-1 Example of PPQ Form 523, Emergency Action Notification

# FRSMP Programs/Links to State Program Websites

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## Links

[Allium Leafminer | \*Phytomyza gymnostoma\* \(Oregon\)](#)

[Allium Leafminer | \*Phytomyza gymnostoma\* Loew \(California\)](#)

Allium leafminer (Texas)

Lilliceris lili (California)

# Official Control Advisory Panel Charter

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## Article 1—Preamble

APHIS-PPQ’s Federally Recognized State-managed Phytosanitary (FRSMP) Program is an administrative mechanism that addresses the application of phytosanitary procedures for plant pests that are **not** widely distributed in the country and that APHIS-PPQ **does not** regulate. It includes “Official Control” which the International Plant Protection Convention (IPPC) defines as “the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated nonquarantine pests.” The FRSMP Program also applies to State-managed exclusion programs when an endangered State protects itself from the domestic introduction of a pest established in another state.

As a member of the [World Trade Organization](#) (WTO) the U.S. agrees to observe the provisions of WTO agreements, including the [Agreement on the Application of Sanitary and Phytosanitary Measures](#) (the SPS Agreement). APHIS-PPQ is the U.S. Agency with primary responsibility for

the implementation of phytosanitary measures. As such, PPQ is also responsible for provisions of the Agreement related to phytosanitary measures, including those implemented in the U.S. by other than the national government. PPQ's role in this regard is to ensure that these entities comply with relevant provisions of the Agreement and **do not** take measures which are, directly or indirectly, inconsistent with the provisions of the Agreement. Further clarification of the role of PPQ under the SPS Agreement is provided by the [International Plant Protection Convention \(IPPC\)](#) and associated international standards. The IPPC is specifically identified by the SPS Agreement as holding the responsibility for standard setting associated with phytosanitary measures.

Under the IPPC's International Standards for Phytosanitary [Measures \(ISPM\) No. 5, Supplement No.1](#), a national government or a National Plant Protection Organization (NPPO) should establish or recognize Official Control under appropriate legislative authority. The national government or NPPO should perform, manage, supervise, or at minimum, audit/review the Official Control program and ensure its enforcement. Agencies other than the NPPO may be responsible for aspects of official control programs, and certain aspects of official control programs may be the responsibility of sub-national authorities.

In furtherance of APHIS-PPQ's commitment to [ISPM No. 5](#) and the [WTO SPS Agreement](#), the Agency has worked cooperatively with the plant pest regulatory agencies of each of the States and Territories, as well as the [National Plant Board \(NPB\)](#), to develop guidelines for the Agency's recognition of State-level phytosanitary management activities, such as State-managed official control programs in conformity with international guidelines. In support of this effort, APHIS-PPQ has established the Official Control Advisory Panel (OCAP) to identify, maintain, and, when necessary, update criteria used by the Agency and States to determine which pests are appropriate for the FRMSP Program and whether State-level actions are sufficient to be recognized by the Agency in its capacity as NPPO. To that end, this Charter establishes the purpose and associated roles and responsibilities of the OCAP in support of the Federally Recognized State-managed Phytosanitary Program.

This Charter is a living document that is open for revision as determined necessary by OCAP consensus.

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## Article II—Definitions

**Official Control.** The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests [[ISPM No. 5](#)].

**Quarantine Pest.** A pest of potential economic importance to the area endangered thereby and **not** yet present there, or present but **not** widely distributed and being officially controlled [FAO, 1990; revised FAO, 1995; IPPC 1997].

**Regulated Nonquarantine Pest.** A nonquarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party [IPPC 1997].

**Sponsor.** Individual or entity that organizes and is committed to the development of a product, program or project. For the FRMSP Program, the sponsor is responsible for coordinating and

leading communication and planning among interested SPROs. The initiating SPRO may sponsor the final petition or defer that role to another participating SPRO. The sponsoring State will be identified in the title of the program - i.e., The Federally Recognized State-managed Phytosanitary Program for “Pest A” Sponsored by the State of “B.”

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## Article III—Purpose

To obtain the designation as a FRSMP Program, a State or States have the option to petition APHIS-PPQ to recognize their established or proposed State-managed phytosanitary program targeting a plant pest or pests that are **not** regulated at the Federal level. The OCAP will develop and use technical criteria to evaluate petitions from States requesting Federal recognition of State-managed phytosanitary programs for plant pests and make the appropriate determination based upon the merits of the petition.

Specifically, the OCAP will:

- Develop and maintain criteria for recognizing a State-managed phytosanitary program
- Assess the technical feasibility of each petition for recognition of State-managed phytosanitary programs
- Identify, as necessary, points within the petition where the FRSMP Program Coordinator for Official Control **must** seek clarification or revisions from requesting State in order to appropriately evaluate the petition’s merits
- Recommend approval or denial of the petition to the PPQ Deputy Administrator through the Associate Deputy Administrator for Emergency and Domestic Programs
- Convene OCAP and experts to evaluate new information associated with existing State phytosanitary programs to determine if the program remains valid or needs to be altered or terminated
- Determine equivalent action at ports of entry relative to phytosanitary requirements for interstate commerce
- Describe State’s specific program reporting requirements relative to approved maintenance program

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## Article IV—PPQ Policy for Recognizing State-managed Phytosanitary Programs

To implement a formal Federal recognition program for State-managed phytosanitary programs, PPQ intends to accept petitions from the State(s), review the petitions, and make decisions-in consultation with the petitioning State(s)-based on established criteria and standards. If PPQ federally recognizes the State’s program, PPQ will continue to take action at the U.S. ports of entry for such pests associated with commodities destined to the affected State(s). PPQ will also continue to take action on pests that are under consideration for State-managed phytosanitary programs until 1) PPQ in consultation with relevant States has determined that a phytosanitary program is unnecessary or impossible; 2) PPQ and States have agreed that it is **not** feasible to establish and maintain a program; or 3) States have expressed no interest in continuing a program.

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## Article V—Panel Members

### Section 1. Panel Members

The panel members shall consist of designees as follows:

1. Ad hoc members – e.g., former OCAP members
2. Field Operations Representative (National Operations Manager)
3. FRSMP Program Coordinator for Official Control
4. National Identification Services Director or unit delegate
5. National Plant Board (NPB) Representative
6. Pest Management (PM) Director or unit delegate
7. Science and Technology Representative

### Section 2. General Duties

Provide scientific expertise, field operations expertise, and regulatory expertise for the purpose of developing, maintaining, and using technical criteria for recognizing State-managed phytosanitary programs or as needed by the FRSMP Program Coordinator for Official Control, addressing other areas relevant to the Federally Recognized State-managed Phytosanitary Program where subject matter expert advice may be useful. Report significant developments from OCAP meetings and communications to pertinent personnel within the PPQ division the member or designee represents. Is responsible for ensuring that OCAP associated tasks are carried out, as needed, within the PPQ division the member of designee represents.

### Section 3. Eligibility

Members of OCAP shall be permanent PPQ employees with scientific, field operations, and/or regulatory expertise. The National Plant Board member shall be a permanent State Department of Agriculture employee with scientific, field operations, and/or regulatory expertise.

### Section 4. Officer Designated Alternates

Members shall designate an alternate to attend in their absence who is qualified and capable of participating and contributing to meetings and petition evaluations. All designated alternates will meet the provisions specified in Sections 2 and 3 of this Article.

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## Article VI—Operations

The FRSMP Program Coordinator for Official Control will be responsible for assuring that members of the OCAP receive States petitions for review. The FRSMP Program Coordinator for Official Control will arrange meetings/conference calls/email communication among the panel members to perform the review. The OC Coordinator will review recommendations for approval/denial with the Plant Health Programs Office of the Executive Director before forwarding to the PPQ Deputy Administrator.

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## Article VII—Meetings

The OCAP will meet/convene at the call of the FRSMP Program Coordinator for Official Control.



## Article VIII—Quorum

The group will achieve consensus with participation from at least one representative from Plant Health Programs, Science & Technology, and Field Operations.

### Decision Making

OCAP decisions will be based on collaboration and consensus among the members. For the purposes of the OCAP, consensus is defined as the cooperative development of a decision with OCAP members working together toward a decision that is consented to by all members constituting a quorum. Full consent **does not** mean that everyone is completely satisfied with the final outcome, but that the decision is acceptable enough that all OCAP members agree to support the OCAP in choosing it. Full consent is only achieved when all OCAP members constituting a quorum agree or accept the decision. In the event that consensus **cannot** be reached on a petition evaluation or other significant matter, the issue will be elevated to the PPQ Management Team for consideration and resolution with all areas of OCAP member disagreement clearly noted.

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### Last Revision

Revisions to this OCAP Charter were approved by consensus Friday, November 12, 2010, by members of the OCAP meeting. Revisions to this OCAP Charter were added to reflect updates to the PPQ organizational structure on November 3, 2014, by the FRMSP Program Coordinator for Official Control. Revisions to the composition of the OCAP (Article V-Panel Members) were effected on November 16, 2015 to update PPQ structure and ensure a smooth transition when OCAP members change. Revisions to the composition of the OCAP allowing directors to delegate a member of their unit to serve on the panel and to remove the names of the original charter approvers were effected in January 2020.

# OCAP Criteria for Federal Recognition of a State-managed Phytosanitary Program

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## Introduction

The following criteria will be used by the Plant Protection and Quarantine (PPQ) program of the U.S Department of Agriculture’s Animal and Plant Health Inspection Service to evaluate State petitions for Federal recognition of State-managed phytosanitary programs. Petitions will be reviewed by PPQ’s Official Control Advisory Panel (OCAP) to ensure that the criteria are satisfactorily met. If OCAP determines that a petitioning State(s) meet the criteria based upon the review, the State’s petition is eligible for approval by PPQ. Subsequently, PPQ will seek to enter into a Cooperative Arrangement with the State(s), formally providing Federal recognition of the State-managed phytosanitary program and terms to allow the State(s) to legally act to prevent the entry of a specified plant pest via domestic commerce and coordinate with PPQ to prevent the entry of these pests via foreign commerce. PPQ, specifically the OCAP, will collaborate with States to ensure that equivalent mitigation measures are applied to imports and the domestic movement of regulated articles.

## Criteria

### I: The Petitioning State(s) Demonstrate that a Pest of Consequence is Under a Phytosanitary Program

The petition should include reasonable evidentiary documentation demonstrating that:

1. The area of the State(s) to be protected under the FRSMSP Program is either pest-free or the pest population is under an appropriate level of phytosanitary management
2. The pest can potentially establish (survive if introduced, as applicable) in the State(s)
3. The pest can potentially cause significant economic and/or environmental damage in the State(s)
4. It is technically feasible to exclude, eradicate, and/or contain the pest with phytosanitary measures

Reasonable evidentiary documentation can include, but is **not** limited to, any of the following examples of documents that may be available:

- Pest data sheets
- Pest risk analyses (PRA)
- Comprehensive pest surveillance data
- State inspection reports
- Port interception data
- National Agricultural Pest Information System (NAPIS) data
- Global Pest and Disease Database (GPDD) and Centre for Agricultural Bioscience International (CABI) documentation
- Scientific and academic literature

Some of this documentation may be maintained by the State and some may be obtained by the State from PPQ or other appropriate sources. Evidence may be developed by the State or in collaboration with PPQ.

The petitioning State(s), upon providing reasonable evidentiary documentation deemed adequate to allow PPQ to approve a petition for Federal recognition of a State-managed phytosanitary program, may specifically be required, as needed, by PPQ to conduct pest surveillance to provide necessary supplemental evidentiary documentation. When such a specific pest surveillance program is necessary, it will be conducted in good faith by the State(s) in a timely manner and with sufficient rigor, which will be determined by PPQ in consultation with the State(s).

More generally, to monitor Federal recognition of a State-managed phytosanitary program, PPQ will further require that all State(s) submit periodic supplementary surveillance documentation following the approval of a petition over a duration that will be specified in the subsequent memorandum of understanding between PPQ and the petitioning State(s).

What constitutes an appropriate level of phytosanitary management will be addressed in the following sections of this document.

## II: The Petitioning State(s) Must Have or Be Able to Obtain Legal Authority to Act on the Pest

The petition should provide evidence that State regulatory authority exists to restrict activities and articles that facilitate the movement of non-quarantine pests or quarantine pests that are **not** under domestic quarantine. This can be demonstrated by indicating that the State(s):

- Have a regulatory quarantine in place to maintain pest freedom or limit pest distribution
- Establish an inspection program targeting arriving interstate host shipments
- Have the commitment and capability to enact, implement, and enforce a regulatory quarantine in a timely manner

In those cases when State(s) have a regulatory quarantine in place, the petition should provide a copy of the State or local (as well as Tribal if applicable) mandatory quarantine regulations associated with pest management programs, testing protocols (if applicable), and other related actions recently taken to maintain pest freedom or contain pest distribution.

PPQ will accept petitions for Federal recognition of a State-managed phytosanitary program from State(s) that have the general authority and capability to enact a pest quarantine regulation, but **do not** currently have specific regulatory quarantine measures in place to address the pest of concern. In these cases, PPQ will provide the petitioning State(s) up to one year to put a pest-specific regulatory program in place. State(s) can request additional time to enact a pest specific regulatory quarantine contingent upon demonstrating to PPQ that their efforts are being conducted in good faith.

## III: Technically Sound Exclusion/Containment/Eradication is Possible

State-managed phytosanitary programs should meet the following criteria:

- Mitigation measures are the least restrictive needed to assure adequate protection
- A process exists to regularly evaluate the feasibility of mitigation measures and demonstrate evidence of effectiveness (quality assurance)
- Annual reports are provided to PPQ showing evidence of the program's effectiveness as it relates to areas of phytosanitary management (ranging from pest monitoring and detection, diagnostics and identification, regulatory activity, and control measures). Upon initiation of a federally recognized State-managed phytosanitary program, PPQ will provide guidance to the State(s) as to what information the annual report should contain. For example, in relation to phytosanitary inspection and testing, the following kind of information would be particularly significant in reporting the program's effectiveness:
  - A description of the type of inspection or testing process used
  - A listing of the type and quantity of material inspected
  - An account of the origin of the material inspected and the name of person inspecting
  - A report on the location, date, and results of inspection or testing
- States **must** be able to define and describe their programs and provide supporting documentation including such items as compliance agreements, auditing reports, maps defining the regulated areas, and marketing statistics

- All relevant and significant pathways are addressed with an estimated 2% inspection rate attained (or other rate comparable to Federal port of entry inspections<sup>3</sup>)
- Appropriate diagnostic capability is demonstrated

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## Failure to Meet the Criteria

Any State petition that fails to meet part or all of the criteria above will be rejected by PPQ. A previously rejected petition may be resubmitted if the petitioning State(s) can revise it to provide the reasonable evidentiary documentation necessary to meet all of the criteria for Federal recognition of a State-managed phytosanitary program.

While PPQ's approval of a State(s) petition will result in a federally recognized State-managed phytosanitary program, this program will be monitored and any changes in the pest's status or failure to meet requirements that result in the criteria no longer being met will result in PPQ reconsidering the status of the federally recognized State-managed phytosanitary program.

***NOTE: The criteria above are open to future revision, as needed by determination of the PPQ OCAP, to ensure the best possible, science-based evaluation of petitions for Federal recognition of State-managed phytosanitary programs.***

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<sup>3</sup> To calculate the inspection rate for program reporting purposes, States will have to provide and update periodically a reasonable estimate of volume of significant hosts entering the State and originating from States infested with the FRMSP pest.

# Analysis Aid for States

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## Evaluation of Pests for USDA’s Federally Recognized State-managed Phytosanitary (FRSMP) Program

### PPQ Regulates Pest

1. Does APHIS PPQ regulate this pest under a federal domestic quarantine?  
Yes – **Does not** qualify for FRSMP.

### Distribution of Pest

2. Is the pest established somewhere in the United States?  
No – **Does not** qualify for FRSMP.

### Port of Entry Considerations

3. Can the pest be detected somewhere in the United States?  
No – **May not** qualify for FRSMP.

4. Is the pest intercepted at ports of entry?<sup>1</sup>  
No – FRSMP **may not** be cost effective.
5. Is the host commodity enterable from where the pest occurs?<sup>3</sup>  
No or Not Likely – FRSMP **may not** be cost effective.
6. Is the host commodity regulated and/or treated as a condition of entry to exclude the pest, for example, to comply with IPPC [International Standards for Phytosanitary Measures](#) such as [ISPM No. 15](#) for Wood Packing Material?  
Yes – FRSMP **may not** be cost effective.
7. Does the plant pest belong to a larger group that requires action by APHIS PPQ, and the pest cannot typically be identified to species when intercepted at ports of entry?  
Yes – FRSMP **may not** be cost effective.

### Technical Containment/Eradication Capabilities

8. Is a technically sound containment or eradication program possible?<sup>2</sup>  
No – **Does not** qualify for FRSMP.

### Export Considerations

9. Are the host commodities in the endangered area exported?  
Yes – FRSMP **may not** satisfy all requirements of importing countries. A SPRO may wish to consider the establishment of a Pest Free Area (PFA).

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## Interpreting Pest Interception Records

When States consider establishing a FRSMP Program for a given pest, they will estimate the cost of excluding, containing and/or eradicating the pest. To determine if the costs are worth the investment, they should also make their estimates of the benefits derived. The added benefit of FRSMP Programs over interstate quarantine for the same pest is federal exclusion of the pest from foreign pathways of introduction. The State should estimate how often the pest is likely to enter the U.S. from foreign sources and with destination as that State.

It is unknown how often a given pest has approached the U.S. in these pathways and it is impossible to predict the frequency of future occurrences. However, PPQ pest interception data record the number of times the pest was found during inspection and serves as the best gauge for estimating pest import frequency.

PPQ National Identification Services (NIS) staff will provide States interested in establishing FRSMP Programs with five years of pest interception data for prospective FRSMP Program pests. The report for each pest will consist of a MS Excel file with the following information:

- Quarantine status of the pest
- Infested commodity

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<sup>1</sup> FRSMP Program would, however, provide protection at ports of entry if that pest is detected as a hitchhiker or if a pathway emerges in the future.

<sup>2</sup> Pests that are **not** contained, eradicated or excluded may be suppressed. It is important to note that suppression programs are **not** within the purview of official control and will **not** be recognized as FRSMP Programs.

- Commodity type (fruit, cutting, etc.)
- Origin of commodity
- Destination state of commodity
- Volume of commodity in the infested shipment
- Pathways
  - “Where intercepted” category (cargo, baggage, mail, etc.)
  - Commodity use category (propagation, consumption)
- No. of interceptions (= number of infested shipments)

By analyzing these data, the State can develop a better picture of how much protection the State would receive from a FRSMP Program.

The purpose of these reports is to aid the States in interpreting pest interception data when evaluating potential benefit from establishing a FRSMP Program. Each of the nine data fields to indicate the meaning, importance and suggested use of the field in analyzing FRSMP Program potential.

### FRSMP Pest Interception Data

**Pest quarantine status.** The pest will be designated as a quarantine pest for the U.S. or **not** at the time of the FRSMP petition.

**Infested commodity.** Indicates the commodity manifested for importation (cargo), carried by a passenger or otherwise found infested with the pest. The pest may **not** be associated with the commodity in the environment but, rather, may have infested the shipment as a hitch hiker as a result of packaging, handling or other procedures.

**Commodity type** (Imported as). This field records the form of the commodity, i.e., whether it was imported as a fruit, plant, root, seed or leaf. This information helps to define the pathway for the pest of concern. For example, if the pest is a root knot nematode on tomato plants, the State considering a FRSMP Program would choose to regulate/inspect tomato plants but **not** the fruit.

**Origin of commodity.** This indicates the country of origin of the shipment, commodity and, presumably, the pest. Origins of cargo shipments are generally accurate. Origins of commodities carried by international passengers are often suspect. In many cases, inspectors **must** rely on the origin provided by the passenger or use the flight origin.

**Commodity final destination.** Even for cargo shipments, accuracy for this field is suspect. Brokers often use their business address as destination rather than the ultimate delivery point of the cargo. Distribution warehouses also serve as destination when, actually, the shipment may travel all over the U.S. If your State is indicated repeatedly, at least you know the pest could frequently transit your State.

**Volume of commodity.** Several very large, infested shipments may very well pose a larger threat of pest establishment than numerous small shipments.

**Pathway: “Where intercepted” category** (cargo, baggage, mail, etc.). The two “Pathway” data fields offer high utility in analyzing these data for FRSMP purposes. States should sort data on these two fields as part of their analysis.



If the State decides **NOT** to implement a FRSMP Program and the pest was intercepted in cargo or mail, infested cargo or mail will be released and allowed to proceed to that State. The same pest found in other “Where intercepted” options will **not** be released, for reasons independent of FRSMP. For example, if found in the passenger “Baggage” category, the inspector will **not** know with certainty which organism he/she has intercepted - PPQ identifiers make the identifications. Therefore, the inspector **must** seize and destroy the infested commodity before submitting the pest for identification. With or without FRSMP Programs, the infested commodities from baggage will **not** be released into the U.S. So, States should **not** consider baggage interception numbers when estimating benefit of FRSMP Programs. Nor should they consider other “Where intercepted” options when the “Commodity Use” (“Material for”) column indicates “Non-Entry.” Thus, interceptions from ship or airplane “Quarters,” “Stores,” or “Holds” **do not** reflect situations where pests would be allowed to enter the U.S., with or without a FRSMP Program. Pests found in those situations are safeguarded and **must** exit the country with the carrier.

**Intended Use** (propagation, consumption, non-entry). Again, “Non-Entry” pathways indicate that pests found in those situations are **not** allowed into the U.S. even if **not** quarantine pests. The distinction between commodities imported for propagation vs. consumption (meaning **not** for propagation) can be extremely important for determining the feasibility of implementing a FRSMP Program. If the pest under consideration for FRSMP is highly polyphagous and/or often a hitch hiker, it may be impractical to regulate the pest in many consumption pathways from infested states.

For a pest like brown garden snail (BGS), for example, the State may choose to accept the risk posed by consumption pathways (**not** regulate these) because the snail could hitchhike with almost any foreign commodity (or container), whether the commodity is held for inspection upon arrival or **not**. The State may decide it would be impractical to track down and inspect shipments of many different commodities from all infested states. However, the State could choose to regulate only the propagative pathway for BGS. The State may deem this approach reasonable, wherein the State would list the pest as regulated and require nursery certification of freedom from BGS for all plants shipped from infested states. In this case, PPQ would implement similar policy at ports of entry, taking quarantine action on infested shipments of plants for planting but no action on infested consumption commodity shipments.

Additionally, a State would likely elect to regulate only the propagative pathway for a pest when data indicates a record of interceptions only from that pathway and never, or rarely, from consumption commodities.

**No. of interceptions** (= approximate number of infested shipments). Numbers of pest interceptions reflect the priorities and other biases of inspectional policy and personnel. Consequently, negative data **do not** guarantee lack of pest risk. High numbers indicate significant approach rates and heightened risk of pest establishment.

PPQ will provide five years of interception data for pests under petition for FRSMP. When interpreting these data, the States **must** understand differences in availability of data for quarantine pests vs. non-quarantine organisms. For quarantine pests, all records were captured in the database during all five years. For non-quarantine organisms, all data were captured for interceptions from consumption items since March 2009; only a small percentage of data were captured from consumption commodities before March 2009. For nonquarantine organisms from propagative commodities, only a small percentage of data were captured for all five years.

For further guidance and examples, please submit your request using the [FRMSP@usda.gov](mailto:FRMSP@usda.gov) mailbox.

## Comparing FRMSP to Programs that Seem Similar

Other activities that APHIS-PPQ oversees have some similarities to the FRMSP Program but have differing purposes and goals. Refer to [Table E-1](#) for a comparison of those programs with the purpose and goals of the FRMSP Program.

**Table E-1 FRMSP-OC-SN-PFA-Relationships**

Category	Federally Recognized State-managed Phytosanitary Program	Official Control <sup>3</sup>	Special Need Provision of the Plant Protection Act	Pest-free area <sup>5</sup>
Definition	The active enforcement of mandatory phytosanitary regulations and the application of phytosanitary procedures with the objective of exclusion, eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.	The active enforcement of mandatory phytosanitary regulations and the application of phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.	A State or political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, plant products, biological control organisms, plant pests or noxious weeds that are in addition to the prohibitions or restrictions imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.	An area in which a specific pest <b>does not</b> occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained.

<sup>3</sup> [International Standards for Phytosanitary Measures \(ISPM No.5\)](#).

Category	Federally Recognized State-managed Phytosanitary Program	Official Control <sup>3</sup>	Special Need Provision of the Plant Protection Act	Pest-free area <sup>5</sup>
Purpose	For the National Plant Protection Organization (NPPO) to oversee recognized State level exclusion, eradication, or containment programs for the purpose of nondiscriminatory risk management.	For the National Plant Protection Organization (NPPO) to perform eradication or containment programs for the purpose of non-discriminatory risk management, or oversee recognized State level eradication or containment programs.	For a State to gain approval from the Secretary to impose prohibitions or restrictions on the movement in interstate commerce of articles, that are in addition to prohibitions or restrictions imposed by PPQ.	A risk management option for phytosanitary certification of plants and plant products and other regulated articles exported from the area or to support scientific justification for phytosanitary measures taken by an importing country for protection of an endangered PFA.
Goals	To justify safeguarding measures taken at ports of entry; apply non-discriminatory measures for foreign import and interstate commerce.	To justify safeguarding measures taken at ports of entry; apply non-discriminatory measures for foreign import and interstate commerce.	Provide extra protection to area from a pest regulated by PPQ that may be transported through interstate commerce.	Predominant goal is to facilitate exports by providing scientific documentation that a regulated pest which is of limited distribution in a country, is <b>not</b> present in the defined area.
Federal/State Pest Program Relationship		Managed at the Federal Level by <a href="#">7 CFR 301</a> or Federal Order.	Special Need may be considered for pests that PPQ regulates under <a href="#">7 CFR 301</a> or by Federal Order.	Pest-free areas are established in order to facilitate exports for regulated pests of limited distribution in the United States.
	Managed at the State level and recognized by PPQ as meeting approved criteria.	Managed at the State Level- (SMOC) State Managed Official Control.	Special Need <b>cannot</b> apply to pests <b>not</b> under Federal Regulation. A State may choose to establish its own phytosanitary program.	Pest-free areas may be established within States and may or <b>may not</b> follow geopolitical boundaries within a particular State.

## FRSMP Program Versus the Special Need Request versus Pest Free Areas

FRSMP Program and the Special Need request share requirements States submit to PPQ:

1. Absence or limited distribution
2. Likelihood of entry and establishment
3. Potential economic/ environmental harm
4. Program for maintenance/ verification
5. State phytosanitary regulations

After that, the similarities ends. Special Need is for requests concerning pests that PPQ regulates domestically such as spongy moth, European grapevine moth, and Plum pox virus. Following a successful application for a Special Need request, States may impose stricter phytosanitary regulations than PPQ on the approved pest for extra protection in interstate commerce. PPQ will continue to regulate the pest at ports of entry with Federal quarantines in place, with no plans to discontinue.

The FRSMP Program is designed to address different circumstances. PPQ has no domestic regulations for pest movement, PPQ has made the decision there will be no domestic resources invested to contain or eradicate the pest, PPQ plans to stop regulating the pest at ports of entry, and the pest can be feasibly contained, eradicated or excluded by interested States.

What can a State do if the pest may have an unacceptable economic or environmental impact for them? As is the practice today, the State can impose its own exterior quarantine and/or establish a containment/eradication program, which will protect the State in domestic commerce. What about protection in foreign trade? The State can be confident of protection if:

- The pest is rarely if ever intercepted at ports of entry
- The pest is part of a family regulated at ports of entry when detected in its immature stages
- The pest is regulated under the conditions of [ISPM No. 15](#) without another pathway

What are the options if the previous conditions **do not** apply? A State may seek to establish a Pest Free Area or petition for Federal recognition of their phytosanitary program.

How would a Pest Free Area (PFA) help a State? If a State has export commodities associated with the pest, then a PFA could mitigate the importing country’s phytosanitary requirements. The establishment of a PFA justifies regulating the pest at ports of entry.

How would the FRSMP Program help a State? FRSMP may be the solution when PPQ has no domestic regulations for the pest but the State does, and the pest is encountered in foreign trade. Effective and non-discriminatory (equivalent) phytosanitary measures would be required. Let’s compare:

**Table E-2 FRSMP-SN-PFA Comparison**

	FRSMP	Special Need	Pest Free Area
PPQ regulated pest domestically?		X	
State Quarantine affected by PPQ regulations?	X	X	
State imposes extra protection in interstate commerce?	X	X	X
State receives port of entry protection?		X	X
Exports facilitated?			X

# Supporting Action, Program Process, and Program Flow

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## Action to Support FRSMP Program at Ports of Entry

[PPQ Form 523, Emergency Action Notification](#) is used for Formal Communication of Remedial Measures. When a pest is detected on an imported commodity, and PPQ identifies it as under the FRSMP Program, the following procedure will take place. Refer to [Table F-1](#), which will summarize the following explanation:

If the commodity enters a port in a State which has a FRSMP Program, the options to the importer will be the least restrictive measure that is feasible and adequate to prevent the dissemination of any plant pest new to or **not** known to be widely prevalent or distributed as per the Plant Protection Act of 2000. The CBPAS or PPQ Officer will follow the appropriate manual for specific instructions.

If the commodity is **not** arriving in a State having a federally recognized State-managed phytosanitary program, an EAN will be issued as an official order to the owner or his agent that the pest is subject to the terms of the [FRSMP Program](#). PPQ identifiers or National Identification Services through PPQ identifiers will relate the remedial action to the CBPAS or PPQ Officer who is issuing the EAN. The CBPAS or PPQ Officer will follow the appropriate manual for specific instructions.

The EAN will communicate that the pest is prohibited from entering a FRSMP Program State(s) for that pest. Should a future decision be made to move the shipment to a State with a FRSMP Program for the pest present in the shipment, the shipment **must** meet treatment requirements if available in order to be moved there. Failure to comply with those requirements will be cause for a violation under Section 414 of the Plant Protection Act.

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## FRSMP Program Process at Ports of Entry

1. The Agricultural commodity is imported and inspected at the U.S. port of entry (POE).
2. If **no** plant pest is detected, the shipment is released.
3. A plant pest is detected and identified. For a more detailed description of the process, refer to the *Manual for Agricultural Clearance* or the *Plant Inspection Stations Manual*.

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## FRSMP Program Flow

A FRSMP Program pest<sup>7</sup> is detected on an imported shipment. Refer to [Table F-1](#) for the process.

**Table F-1 FRSMP Program Flow**

<b>If the shipment is:</b>	<b>Then:</b>
Arriving in a FRSMP State	(1) TREAT; RE-EXPORT; (3) DESTROY; or REDIRECT and avoid States participating in a FRSMP Program for that specific pest
<b>Not</b> arriving in a FRSMP State	<ol style="list-style-type: none"><li>1. INCLUDE notice to avoid States participating in a FRSMP Program for that specific pest</li><li>2. RELEASE the shipment</li><li>3. PPQ generates internal alert</li></ol>

When the EAN communicating required remedial measures is issued to an owner or agent whose commodity is **not** arriving in a State with a federally recognized State-managed phytosanitary program, PPQ will also communicate with the appropriate internal PPQ group for periodic quality assurance follow up in the market place. The internal PPQ group may confirm by shipping records that the shipment did **not** move to that State. If records indicate that the shipment did indeed enter the State without remedial measures, State and/or federal agencies may pursue a violation.

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<sup>7</sup> FRSMP pests are quarantine pests that require phytosanitary action.

# Audit Checklist

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## FRSMP Program Audit Checklist and Summary Report

### APHIS Audits

APHIS will conduct regular audits of a State FRSMP Program that has been approved and implemented. The objective of these audits is to identify the program’s conformance or deficiencies in its implementation.

APHIS-PPQ Field Operations will determine the procedure to conduct these audits with a frequency of one audit per approved program every three years.

### Audit Checklist

The [audit checklist is available on the APHIS website](#). The checklist **must** be used by PPQ auditors who will be designated by PPQ Field Operations. The list reflects the conditions agreed upon by the State during the original application process. Interviews with State officials are an important component of these audits. With some exceptions, the burden to prove conformance resides on the State.

It is important that PPQ auditors request appropriate documents required to complete the checklist and record titles of such documents in the “Notes” sections of the checklist. Depending on funding and availability of personnel, auditors should also consider coordinating site visits to verify conformance.

PPQ auditors should note that some evidence may be used in more than one section of the checklist, if appropriate.

# Online Resources

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## Links to Useful Websites

Refer to the websites below for additional information:

- [National Plant Board](#)
- [IPPC Adopted Standards](#)
- [National Agricultural Statistics Service](#)
- [Threatened and Endangered Species System](#)
- [USDA Crop Profiles](#)
- [U.S. Government Printing Office Style Manual](#)

## Approved State-managed Phytosanitary Programs

As FRSMP Programs are approved, links to those approved State-managed phytosanitary programs will appear in [FRSMP Programs/Links to State Program Websites](#).



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## Definitions, Terms, and Abbreviations

**containment**<sup>1</sup>. Application of phytosanitary measures in and around an infested area to prevent spread of a pest.

**delimiting survey**<sup>1</sup>. Survey conducted to establish the boundaries of an area considered to be infested by or free from a pest.

**detection survey**<sup>1</sup>. Survey conducted in an area to determine if pests are present.

**endangered area**<sup>1</sup>. An area where ecological factors favor the establishment of a pest whose presence in the area will result in economically important loss.

**equivalence (of phytosanitary measures)**<sup>1</sup>. The situation where, for a specified pest risk, different phytosanitary measures achieve a contracting party's appropriate level of protection.

**eradication**<sup>1</sup>. Application of phytosanitary measures to eliminate a pest from an area.

**exclusion**<sup>2</sup>. Application of phytosanitary measures in and around an endangered area to prevent the introduction of a pest.

**Federal Collaborator**. An individual who has specialized plant health skills that APHIS requires to complete specialized program activities, complete APHIS training, or perform APHIS-sanctioned duties. The [Plant Protection Act of 2000 \(PPA\)](#) authorizes the Secretary to cooperate with the States or political subdivisions thereof, domestic or international organizations or associations, and individuals to carry out the programs of the PPA. For more information, refer to [Statement of Work for Federal Collaborators](#).

**International Plant Protection Convention**<sup>1</sup>. International Plant Protection Convention, as deposited with FAO in Rome in 1951 and as subsequently amended.

**International Standard for Phytosanitary Measures**<sup>1</sup>. An international standard adopted by the Conference of FAO, the Interim Commission on phytosanitary measures or the Commission on phytosanitary measures, established under the IPPC.

**interstate commerce**<sup>3</sup>. Trade, traffic, or other commerce: (a) between a place in a State and a point in another State, or between points within the same State but through any place outside that

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<sup>1</sup> From [International Standards for Phytosanitary Measures ISPM No. 5. Glossary of Phytosanitary Terms \(2013\)](#).

<sup>2</sup> Proposed IPPC definition.

<sup>3</sup> From the [Plant Protection Act of 2000](#).

State; or (b) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

**legislation**<sup>4</sup>. Any act, law, regulation, guideline or other administrative order promulgated by a government [[ISPM No. 3, 2005](#)].

**monitoring**<sup>4</sup>. An official ongoing process to verify phytosanitary situations.

**move and related terms**<sup>5</sup>. The terms “move”, “moving”, and “movement” mean: (a) to carry, enter, import, mail, ship, or transport; (b) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; (c) to offer to carry, enter, import, mail, ship, or transport; (d) to receive to carry, enter, import, mail, ship, or transport; (e) to release into the environment; or (f) to allow any of the activities described in a preceding subparagraph.

**National Plant Protection Organization**<sup>4</sup>. Official service established by a government to discharge the functions specified by the IPPC.

**permit**<sup>3</sup>. A written or oral authorization, including by electronic methods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

**pest**<sup>4</sup>. Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products.

**phytosanitary measure (agreed interpretation)**<sup>4</sup>. Any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated nonquarantine pests.

**phytosanitary procedure**<sup>4</sup>. Any official method for implementing phytosanitary measures including the performance of inspections, tests, surveillance or treatments in connection with regulated pests.

**protected area**<sup>4</sup>. A regulated area that an NPPO has determined to be the minimum area necessary for the effective protection of an endangered area.

**quarantine pest**<sup>4</sup>. A pest of potential economic importance to the area endangered thereby and **not** yet present there, or present but **not** widely distributed and being officially controlled.

**regulated area**<sup>5</sup>. An area into which, within which and/or from which plants, plant products and other regulated articles are subjected to phytosanitary regulations or procedures in order to prevent the introduction and/or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests (refer to Glossary Supplement No. 2).

**regulated nonquarantine pest**<sup>5</sup>. A nonquarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party.

**sponsor**<sup>6</sup>. Individual or entity who organizes and is committed to the development of a product, program or project. For the APHIS-PPQ FRMSP Program, the sponsor is responsible for coordinating, leading communication, and planning among interested SPROs. The initiating SPRO may sponsor the final petition or defer that role to another participating SPRO. The

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<sup>4</sup> From [International Standards for Phytosanitary Measures ISPM No. 5, Glossary of Phytosanitary Terms \(2013\)](#).

<sup>5</sup> From the [Plant Protection Act of 2000](#).

<sup>6</sup> Definition of term for the FRMSP Program.

sponsoring State will be identified in the title of the program – i.e., The Federally Recognized State-managed Phytosanitary Program for “Pest A” Sponsored by the State of “B.”

**State**<sup>7</sup>. Any of several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

**surveillance**<sup>5</sup>. An official process which collects and records data on pest occurrence or absence by survey, monitoring, or other procedures.

**survey**<sup>5</sup>. An official procedure conducted over a defined period of time to determine the characteristics of a pest population or to determine which species occur in an area.

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<sup>7</sup> From the [Plant Protection Act of 2000](#).